

**CITY OF HIGH POINT  
PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT  
VARIANCE CASE 14-01  
January 9, 2013**

<b>Request</b>	
<b>Applicant:</b> City of High Point, and Wynnefield Properties, LLC	<b>Owner:</b> Greenwood & Charles, Inc.
<b>Proposal:</b> The City of High Point and Wynnefield Properties, Inc., on behalf of Greenwood & Charles, Inc, requests an 89 foot variance to the 250-foot maximum length for a multifamily building in order to construct a multifamily building on the property with an overall length of 339 feet	<b>Relevant Ordinance Section:</b> This application references Section 9-4-11 (b)(4)a. of the High Point Development Ordinance regarding requirements for multifamily developments, and is filed pursuant to Section 9-9-6(j) (Variances) of the Ordinance.

<b>Site Information</b>	
<b>Location:</b>	3730 Admiral Drive, being approximately 1,000 feet west of the intersection of Penny Road and Samet Drive.
<b>Site Dimensions and Acreage:</b>	The site is approximately 2.6 acres in size and has frontage on Admiral Drive.
<b>Physical Characteristics:</b>	This site is has been graded for construction. It has been cleared of vegetation. The site is terraced such that the southern end is lower in elevation then the northern end of the property.
<b>Improvements:</b>	This site currently has portions of two paved parking areas, which are not in use.
<b>Current Zoning:</b>	Conditional Use General Office – High Intensity (CU GO-H 10-03)
<b>Current Land Use:</b>	Vacant

<b>Adjacent Property Zoning and Current Land Use</b>		
<b>North:</b>	Conditional Use Highway Business (CU HB)	Office and service uses
<b>South:</b>	Conditional Use General Office – High Intensity (CU GO-H)	Vacant
<b>East:</b>	Conditional Use Shopping Center (CU SC)	Food store
<b>West:</b>	Conditional Use General Office – High Intensity (CU GO-H)	Multifamily residential

### **Additional Facts, Observations and Circumstances of the Case**

- ❖ The applicant is proposing to construct a building consisting of approximately 56 dwelling units on the subject property.
- ❖ A second building would also be constructed on the property, containing approximately 2 units as well as a commons area room.
- ❖ The larger building would have a length of 338.3 feet, and would be three stories in height.
- ❖ The Development Ordinance prohibits a multifamily building from exceeding 250 feet in length unless it is designed for the elderly and has central facilities for dining and recreation.
- ❖ The applicant states in the application that the dwelling units would be offered as affordable housing, and would be built with the benefit of federal grant money.
- ❖ The building is not designed to house the elderly, and therefore is not exempt from the 250-foot maximum length requirement.
- ❖ Both buildings proposed for the site would meet the required building setbacks.
- ❖ The proposed apartment building is separated by a firewall into two distinct and separate portions of the building. There will be no internal access through the firewall.
- ❖ Based upon the unit and bedroom count, the Development Ordinance requires 105 parking spaces for this project. The site plan submitted by the applicant incorrectly shows a parking requirement of 116 parking spaces.
- ❖ The site is currently vacant, except for surface parking lots that are not currently in use.
- ❖ The property directly west of the subject site is developed with a multi-family building on the site. This building has a length of 283.5 feet, and is three stories in height.
- ❖ There is a large scale ("big box") retail building located directly east of the subject site, which has a length of approximately 270 feet. It is a single story in height.
- ❖ The current zoning for the property allows multi-family development.
- ❖ The applicant states in the variance application that they attempted to purchase additional land from the adjacent property owners but were unsuccessful.
- ❖ The applicant's proposal will require review and approval by the City's Technical Review Committee, and a building permit, prior to the start of construction.
- ❖ The zoning for the property would allow up to 65 dwelling units given a site area of 2.6 acres. The applicant is proposing a total of 58 units for the site.
- ❖ The applicant states in the variance application that it would not be possible to construct the proposed units as two separate buildings without encroaching into the required setbacks.

### **Findings**

A variance may be granted by the Board if evidence presented by the applicant persuades it to reach each of the following conclusions:

- ❖ Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in absence of the variance, no reasonable use can be made of the property.
- ❖ The hardship results from the conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships

resulting from conditions that are common to the neighborhood or the general public may not be the basis for granting a variance.

- ❖ The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- ❖ The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

### **Staff Analysis and Comment**

The applicant states that a reduction of the number of units would cause a hardship due to the financial circumstances regarding this property. Financial concerns should not be the basis of a hardship in granting a variance. This project is receiving federal funding, as well as some financial involvement from the City of High Point. In conversations with the Planning and Development staff the applicant stated that the project is required to meet certain standards to qualify for such funding, such as a minimum number of dwelling units, and a qualifying site location. The Board may wish to have the applicant provide testimony to further explain these details. The Board will need to determine if the design and site selection criteria described by the applicant contribute to a finding of an unnecessary hardship.

The applicant states that a hardship results from the size and shape of the property. While the property does have an irregular shape, it is not uncommon for a property to have an irregular shape, and many such properties are developed without the need for a variance. The subject property is somewhat rectangular in shape, and the size and width of the property are far in excess of the minimum requirements for lots in this zoning district. The applicant did note that an attempt to purchase additional property from the adjacent lots was made, but was not successful.

Based upon the dwelling and bedroom count provided by the applicant the minimum parking requirement for this site is 105 parking spaces, not 116 as provided by the applicant on the proposed site plan. If the five parking spaces just to the south of the large apartment building were eliminated it might clear enough space to separate the large apartment building into two separate buildings and still meet all setback and other code requirements, including the minimum 20-foot building separation required by the Development Ordinance. The Board may wish to ask the applicant how much consideration was given to such alternative configurations that could maintain the desired number of dwelling units and yet not require a variance.

The intent of the requirement for a multifamily building not to exceed 250 feet in length is to help limit the mass of any particular residential building from becoming too large. This limit gains importance in the current Development Ordinance, as it has very few requirements for design or architectural elements that would help break up the perceived mass of a large building. However the building proposed by the applicant does incorporate design and architectural features that help reduce the perception of a large building mass. This therefore helps meet the intent of the provision from which it seeks relief. The features implanted in the proposed design include a variation of building height, a large façade offset (at the northern end of the building),

as well as the use of architectural features such as varying building materials and roof form. Furthermore, many if not all of the buildings in the proximity of this site are also large buildings, including the residential building located directly to the west (being three stories in height and over 280 feet in length) and the big box retail building located directly to the east.

Given the factors noted above this request can make a strong claim for substantial justice, especially when consideration is given to the benefit any affordable housing project provides to the greater community. In some past instances where a variance request exhibited a strong finding for substantial justice the Board interpreted that the need for strong practical difficulty (now just termed as an unnecessary hardship) was reduced. The Board may wish to consider if the same applies in this request.

Given the location of the adjacent land uses Planning and Development Department staff concurs with the applicant that the site is ideal for multifamily development. This is based upon the existing multifamily residential to the west and south, and the commercial properties in the vicinity that provide goods and services that support residential uses. For instance there are three large grocery stores within half a mile of the site, and numerous restaurants and other services are located in the nearby commercial developments.

### Preliminary Conclusions

The preliminary conclusions below are an application of facts, observations and circumstances associated with this request to the required findings, and are based on the sum of information available to staff as of the preparation date of this report. This information includes the application and exhibits prepared by the applicant, as well as our own observations, data and analysis. It is meant to provide interpretive assistance. The Board should draw its own conclusions that are based upon the entirety of testimony and material evidence presented at the public hearing.

<b>Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in absence of the variance, no reasonable use can be made of the property.</b>	<p>Financial hardships should not be a basis for a finding of unnecessary hardship. The property has irregular shape, but this is not uncommon, and the property appears to be free of other development constraints. It should be noted that the applicant stated that they attempted to purchase additional property from the adjacent sites, but were unsuccessful.</p> <p>The need to meet the minimum length standard is reduced in this instance, as the applicant is meeting the intent of the minimum length provision, and other buildings in the area also have a large building mass.</p> <p>In addition, the Board may wish to consider how any testimony given by the applicant regarding criteria placed on the project by the involvement of government funding contributes toward a finding of an unnecessary hardship.</p>
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<b>The hardship results from the conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public may not be the basis for granting a variance-</b>	<p>The property has an irregular shape, but it exceeds the minimum lot size and width requirements, and it is not uncommon for properties with an irregular shape to be developed. In addition most other developmental constraints appear to be absent from this site. For instance, there are no streams located on the property, nor any severe topographic challenges.</p> <p>The applicant needs to provide testimony concerning the importance of this particular site to the proposed project, which should be weighed by the Board when considering the hardship findings.</p>
<b>The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship -</b>	<p>The need for this request appears to be based upon the applicant's desire for the proposed development configuration. The applicant has yet to document or provide evidence that alternative designs that meet all Ordinance requirements are not feasible for this site.</p>
<b>The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.</b>	<p>The proposed apartment building meets the intent of the Development Ordinance. The mass of the proposed building is not out of character with the surrounding development, as the surrounding area has many large building in the immediate vicinity, including residential buildings. In addition, the proposed building has design features, such as variation of building height, a large façade offset, and the use of architectural elements that help reduce the visual presence of the building. An argument for a strong finding of substantial justice can likely be made in this request, particularly when consideration is given to the benefit any affordable housing project gives to the community as a whole.</p>
<b>Summary Statement</b>	<p>Based on conversations staff has had with the applicant, there is significant information that could potentially have a bearing on the outcome of this request that is not part of the written application. The Board will need to weigh this information carefully, if testified. Based upon the application as submitted, however, staff suggests that the request <b>does not</b> meet the required Findings of Fact, as outlined above.</p>

**Report Preparation**

This report was prepared by Planning and Development Department staff member Doug Loveland, AICP, and reviewed by, Robert Robbins, AICP.